



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: FOO - 176270

PRELIMINARY RECITALS

Pursuant to a petition filed on August 18, 2016, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Eau Claire County Department of Human Services regarding FoodShare benefits (FS), a hearing was held on September 20, 2016, at Eau Claire, Wisconsin.

The issue for determination is whether the county agency correctly determined the petitioner's FoodShare allotment.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: [REDACTED]
Eau Claire County Department of Human Services
721 Oxford Avenue
PO Box 840
Eau Claire, WI 54702-0840

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Eau Claire County.

2. The department notified the petitioner on August 8, 2016, that the petitioner's household FoodShare allotment would decline from \$312 to \$155 per month.
3. The petitioner receives an average of \$381.63 per month in child support on behalf of his three children. The household also receives \$816.78 in state and federal SSI and \$608 in W-2 payments. The total household gross income is \$1,806.41.
4. There are four persons in the petitioner's household.
5. The petitioner pays \$420 per month in rent and pays his own utilities, including heat.

DISCUSSION

FoodShare benefits depend upon household size and net income. Net income is determined after subtracting from gross income those deductions—and only those deductions—found in 7 CFR § 273.9(d). Gross income includes all income from any source unless it is specifically excluded. 7 CFR § 273.9(b). The county agency reduced the petitioner's FoodShare allotment from \$312 to \$155 per month after it began counting the child support payments he had been receiving. Child support is not excluded from gross income. *See* 7 CFR § 273.9(c).

The petitioner's monthly household gross income consists of child support, SSI payments, and W-2 payments. The department determined the petitioner's child support income by using the average he received in the three previous amounts. This came to \$381.63 on behalf of his three children. His household also receives \$816.78 in state and federal SSI and \$608 in W-2 payments for total gross income of \$1,806.41. The petitioner does not dispute any of these figures.

He is entitled to the \$168 standard deduction allowed for households with four members. *FoodShare Wisconsin Handbook*, § 4.6.2 and 8.1.3; 7 CFR § 273.9(d)(1). He is also entitled to the shelter deduction, which equals the amount that housing costs, including a standard utility allowance currently set at \$458, exceed 50% of the net income remaining after all other deductions are subtracted from gross income. (Because there is a standard utility allowance, actual utility costs are not considered.) *FoodShare Wisconsin Handbook*, § 4.6.7; 7 C.F.R. § 273.9(d)(6)(ii); *FoodShare Wisconsin Handbook*, § 8.1.3. The maximum shelter deduction is \$490. *FoodShare Wisconsin Handbook*, § 8.1.3. The petitioner currently pays \$420 a month in rent. Because he pays his own utilities, the \$458 standard utility deduction is added to this, bringing his total shelter costs to \$878 per month. Deducting the \$168 standard allowance from his \$1,806.41 gross income leaves him with \$1,638.41. Half of this is \$819.20. His \$878 in shelter costs exceed this amount by \$58.80, which is his shelter deduction. Subtracting the two deductions he is allowed—the \$58.80 shelter deduction and the \$168 standard deduction—from his \$1,806.41 gross income, leaves him with \$1,579.61 in countable net income. The FoodShare allotment for a four-person household with this income is \$175. *FoodShare Wisconsin Handbook*, § 8.1.2. He has \$17 per month deducted from his allotment to repay an overpayment. This leaves him with \$158 per month in FoodShare. Because this is the amount the agency determined he is entitled to, I must uphold its decision.

Although the petitioner did not dispute any of this, he became belligerent during the hearing, claiming he was being “screwed,” that he was the “one in the trenches,” and that the county worker and I had “taxpayer funded jobs” and he paid our salaries. He then stormed out of the room. I commend him for the work he puts in being a single father, but I am required to determine FoodShare benefits according to FoodShare laws and not his sense of fairness.

CONCLUSIONS OF LAW

The county agency correctly determined the petitioner's household FoodShare allotment.

THEREFORE, it is

ORDERED

The petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 26th day of September, 2016

\s _____
Michael D. O'Brien
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on September 26, 2016.

Eau Claire County Department of Human Services
Division of Health Care Access and Accountability